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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/648,523	08/26/2000	Toshio Nishimura	36856.337	6442

7590

05/06/2002

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EXAMINER

BUDD, MARK OSBORNE

ART UNIT

PAPER NUMBER

2834

DATE MAILED: 05/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

648 523

Applicant(s)

Nishimura

Examiner

M. Bodd

Group Art Unit

2834

---The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address---

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 3-6-02
- ☒ Responsive to communication(s) filed on _____.
 - ☒ This action is **FINAL**.
 - ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-16 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-16 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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Claims 1, 2, 5-10, 12, 13, 15 and 16 are rejected under **35 USC 102** as anticipated by Kaida (652), Kaida (698), Ogawa or Kitaka for the specific reasons set forth in paper no: 10 (10-15-01).

Claims 3, 4, 11 and 14 are rejected under **35 U.S.C. 102** as anticipated by Kitaka for the reason noted in paper no: 3 (10-15-01).

Applicants argue that the references do not explicitly teach the thickness of each piezoelectric layer as the same as all others. Applicants also note that although the drawings may appear to show equal thicknesses that drawings are imprecise and not to scale, and should not be relied on for dimensional facts. It is true that the references don't explicitly define the piezoelectric layer thickness and drawings are not expected to be an exact depiction of dimensions. However, it is also clear that the references give no reason why the layers should or would be of different thicknesses. Thus, it is fair and reasonable to assume the layer thickness is meant to be uniform (within manufacturing tolerances) and $D1=D2$. Thus the claims, structurally, read directly on the cited references.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

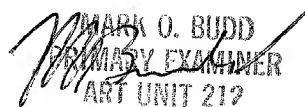
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


MARK O. BUDD
PRIMARY EXAMINER
ART UNIT 212

M BUDD/pj

05/02/02